

REMARKS

Claims 1-13 are pending in this application. By this Amendment, Applicant amends claims 1-13 for clarity. Support for the amendments to claims 1, 5, 11, and 12 may be found at least on page 11, lines 11-14, and page 12, lines 1-25. No new matter is added. Applicant respectfully requests reconsideration and prompt allowance of the pending claims at least in light of the following remarks.

The Office Action rejects claims 1-13 under 35 U.S.C. §112, second paragraph, as indefinite. By this Amendment, Applicant amends claims 1-13 to be definite. Accordingly, Applicant respectfully requests withdrawal of the rejection.

The Office Action rejects claims 1-4 and 8-10 under 35 U.S.C. §102(b) over JP 07-102571 (hereinafter "JP 571"). Applicant respectfully traverses the rejection.

JP 571 fails to disclose, teach, or suggest "that the material is cured for 8 hours or more and less than 48 hours," as recited in claim 1. In particular, JP 571 discloses that the material must be cured for "two or three days" (abstract, paragraph [0008], and paragraph [0011]), i.e., more than 48 hours. Thus, JP 571 cannot reasonably be considered to disclose, teach, or suggest "that the material is cured for 8 hours or more and less than 48 hours," as recited in claim 1. Thus, claim 1 is patentable over JP 571.

Further, claims 2-4 and 8-10 are patentable for at least the reasons that claim 1 is patentable, as well as for the additional features they recite. Accordingly, Applicant respectfully requests withdrawal of the rejection.

The Office Action rejects claims 5-7 and 11-13 under 35 U.S.C. §103(a) over JP 571. Applicant respectfully traverses the rejection.

This rejection is premised upon the presumption that JP 571 discloses all of the features of claim 1. Because, as discussed above, JP 571 does not disclose all of the features

of claim 1, the rejection is improper. Applicant respectfully requests withdrawal of the rejection.

Furthermore, in support of the rejection the Office Action simply alleges that forming the material into a container-like body and burying it would be "a matter of design choice for the skilled artisan" (Office Action, p. 5). Here the Office Action is simply alleging that the material of JP 571 could be formed into a container because containers are known. The fact that a reference "can be modified" or that a modification would be "within the ordinary skill of the art" is not enough to establish a *prima facie* case of obviousness under §103(a) unless the references suggest the desirability of such a modification (see MPEP §§ 2143.01(III) and 2143.01(IV). The Office Action fails to identify a motivation for such a modification (i.e., why the skilled artisan would be motivated to form a container) as required by MPEP §§ 2142, 2143).

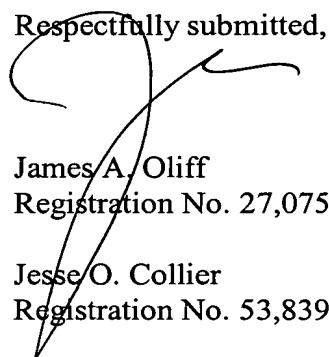
JP 571 does not include any motivation to form a container-like formed body. Instead, JP 571 discloses that the material is to be used for slope stability. Furthermore, nothing in the disclosure of JP 571 suggests an ability of the material to, for example, hold water or having any other quality of a container.

Because the Office Action has failed to identify a motivation for forming the material of JP 571 into a container-like formed body, the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 5-7 and 11-13. Accordingly, for this additional reason the rejection is improper. Applicant again respectfully requests withdrawal of the rejection

In view of at least the foregoing, Applicant respectfully submits that this application is in condition for allowance. Applicant earnestly solicits favorable reconsideration and prompt allowance of claims 1-13.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, Applicant invites the Examiner to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


James A. Oliff
Registration No. 27,075

Jesse O. Collier
Registration No. 53,839

JAO:JOC/smo

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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